

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing post-2003 Low-Income Assistance Programs.	Rulemaking 04-01-006 (Filed January 8, 2004)
In the Matter of the Application of PACIFICORP for Approval of 2005 Low-Income Assistance Program Budgets.	Application 04-06-038 (File June 30, 2004)
In the Matter of the Application of Southwest Gas Corporation (U 905 G) for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-002 (Filed July 1, 2004)
IN THE MATTER of the Application SIERRA PACIFIC POWER COMPANY (U 903), for an Order Approving its 2005 California Alternate Rates for Energy (CARE) and Low Income Efficiency (LIEE) Plans and Budgets.	Application 04-07-014 (Filed July 1, 2004)
In the Matter of the Application of Avista Corporation for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-015 (Filed July 1, 2004)
In the Matter of the Application of the SOUTHERN CALIFORNIA WATER COMPANY (U 133 W) Regarding Low Income Assistance Programs for its Bear Valley Electric Service Customers for Program Year 2005.	Application 04-07-020 (Filed July 8, 2004)
Application of Alpine Natural Gas Operating Company No. 1 LLC in Compliance with Decision 03-12-016 (PY 2004 Low Income Energy Efficiency ("LIEE") and California Alternate Rates For Energy ("CARE") program Plans).	Application 04-07-027 (Filed July 2, 2004)
In the Matter of the Application of West Coast Gas Company (U-910-G) For Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-050 (Filed July 29, 2004)

**ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING IN RESPONSE TO  
THE NOTICE OF INTENT OF THE ASSOCIATION FOR CALIFORNIA  
COMMUNITY AND ENERGY SERVICES TO CLAIM COMPENSATION**

The Association for California Community and Energy Services (ACCES) describes itself as “a statewide association of Community Action Agencies, Community Development Corporations, and Community Based Organizations, all of whom provide services to, and advocate on behalf of, low income and hard-to-reach populations in urban and rural California.”<sup>1</sup> On May 25, 2005, ACCES filed its notice of intent to claim compensation for its involvement in future phases of this proceeding. Pursuant to Pub. Util. Code § 1804(b)(1), if the moving party includes in its notice of intent a request for a finding of financial hardship, the assigned administrative law judge (ALJ) should issue a ruling within 30 days making a preliminary finding. ACCES has chosen not to seek such a finding at this point in the proceeding. However, § 1804(b)(2) provides that the ALJ “may, in any event, issue a ruling addressing issues raised by the notice of intent to claim compensation.” ACCES raises a number of issues that merit comment now.

**Timeliness**

Pub. Util. Code § 1804(a)(1) requires customers who intend to claim compensation to file a notice of intent within 30 days after the prehearing conference is held in the proceeding. However, the Commission has discretion to determine “an appropriate procedure for adopting new or revised notices of

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<sup>1</sup> I note that ACCES does not currently appear on the list of Active Parties for this proceeding. Through this ruling, I direct that ACCES be so listed.

intent” in cases “where the schedule would not reasonably allow parties to identify issues within th[at] timeframe . . . or where new issues emerge subsequent to the time set for filing.” As ACCES points out, the only prehearing conference in this proceeding, thus far, was held May 18, 2004. Since then, the Commission has consolidated with this docket various program funding applications, has issued a decision related to the large in-state utilities, and is now considering a draft decision related to the other energy utilities. In addition, the Assigned Commissioner has defined and revised the scope of work for Phase 5 of the efforts of the Standardization Team, and directed the team to undertake a more inclusive public process.

The Standardization Team filed a revised work plan on April 25, 2005. ACCES states its intention to participate actively in the Phase 5 activities, and any resulting Commission decisionmaking process. ACCES argues that by submitting its notice of intent within 30 days of the issuance of the revised work plan, its notice is timely. I agree. In a long-standing “umbrella” proceeding such as this, it would be unduly burdensome to expect parties to declare the nature of their involvement well in advance (in this case, a year in advance) of the time when the Commission defines the processes with which it wants to be involved. ACCES is acting reasonably in filing its notice now because it could not reasonably have identified the issues of concern at the time of the prehearing conference, and it has not unfairly burdened any other party. I further note that no party has responded to ACCES’ notice of intent.

### **Customer Status**

Pub. Util. Code § 1803 provides that the Commission shall award compensation for participation in a Commission proceeding by a customer who also complies with several other statutory requirements.

Section 1802 (b)(1) states that “customer” means any of the following:

- (A) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission.
- (B) A representative who has been authorized by a customer.
- (C) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.

ACCES is a California non-profit, public benefit corporation. It argues that it fits the third definition of a customer because its charter states that its purpose is “to engage in any lawful activity permitted by the laws of this State that will promote and/or enhance advocating for grants and/or other types of monetary support on behalf of low-income and hard-to-reach Californians.” ACCES appears to imply that advocacy for monetary support for low-income and hard-to-reach Californians includes advocacy for expanded Low-Income Energy Efficiency Programs (and perhaps expanded rate relief, as well). This appears to be a reasonable suggestion, in that its participation in this proceeding may affect the monetary support available to those low-income Californians who are ratepayers of regulated utilities. Thus, pursuant to § 1803, ACCES may be fully eligible for compensation if it makes a substantial contribution to a Commission order or decision.

### **Significant Financial Hardship**

Even if ACCES does make a substantial contribution to a Commission decision or order, it cannot receive compensation unless it is able to demonstrate that participation without an award of fees or costs would impose a significant financial hardship (§ 1803(b)).

ACCES has the discretion to defer its request for a finding of significant financial hardship until it submits its request for compensation, and ACCES has chosen to do so in this instance. Some portion of its members may be service providers under one or more of the Commission's low-income programs. This is information which ACCES has not provided as part of its Notice of Intent. Whether or not ACCES can demonstrate financial hardship may depend on the nature of the issue or issues concerning which it makes a substantial contribution. Regardless of whether its contribution is beneficial to ratepayers, before receiving compensation, ACCES must demonstrate to the Commission's satisfaction that the economic interest of the association's individual members is small in comparison to the cost of effective participation in the proceeding (§ 1802(g)). In other words, if individual members of the association stand to benefit from the outcomes advocated by ACCES, there is a strong possibility that ACCES will not receive compensation. That determination is going to depend on the nature of the contribution and the facts related to the membership of the association. The inquiry underlying this determination can logically be undertaken at the time of a request for compensation. I address the issue, here, in order to ensure that ACCES is aware of the questions yet to be resolved.

**IT IS RULED** that:

1. The Notice of Intent of the Association for California Community and Energy Services (ACCES) is timely.
2. The Notice of Intent meets the statutory requirements.
3. ACCES is a customer as defined in Pub. Util. Code § 1802(b)(1)(C).
4. ACCES has yet to demonstrate that participation in this proceeding will impose a significant financial hardship on its members.

Dated July 8, 2005, at San Francisco, California.

/s/ STEVEN WEISSMAN

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Steven Weissman  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have this day served the attached Assigned Administrative Law Judge's Ruling in Response to the Notice of Intent of the Association for California Community and Energy Services to Claim Compensation on all parties of record in this proceeding or their attorneys of record by electronic mail to those who provided electronic mail addresses, and by U.S. mail to those who did not provide electronic mail addresses.

Dated July 8, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.